

<b>File NO: 14089.0001</b>		UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY
<b>PETER H. WEGENER, ESQ.</b> <b>RUI O. SANTOS, ESQ.</b> <b>BATHGATE, WEGENER &amp; WOLF</b> A Professional Corporation One Airport Road Lakewood NJ 08701 (732) 363-0666 <a href="mailto:pwegener@bathweg.com">pwegener@bathweg.com</a> <a href="mailto:rsantos@bathweg.com">rsantos@bathweg.com</a>		
Attorneys for Defendant Ogden Realty Co.		
<b>TEXAS EASTERN TRANSMISSION, LP,</b> a limited partnership of the State of Delaware	:	Document Filed Electronically
Plaintiff,	:	
vs.	:	<b>CIVIL ACTION NO. 2:14-cv-</b> <b>00167-SRC-CLW</b>
0.077 Acres Of Land, More or Less, In The City of Jersey City, Hudson County, New Jersey; COLES JERSEY DEVELOPMENT CO., LLC; OGDEN REALTY CO.; JANE AND JOHN DOES 1 through 50 (fictitious name defendants); and ABC BUSINESS ENTITIES 1 through 50 (fictitious name defendants),	:	
Defendants.	:	DEFENDANT OGDEN REALTY CO.'S ANSWER TO PLAINTIFF TEXAS EASTERN TRANSMISSION, LP'S VERIFIED COMPLAINT, CROSSCLAIM AND JURY DEMAND

Defendants 0.077 Acres of Land, More or Less, in the City of Jersey City, Hudson County, New Jersey and OGDEN REALTY CO. ("Defendant" or "Ogden"), of 2820 16<sup>th</sup> Street North Bergen, New Jersey 07047, by and through its undersigned counsel, Bathgate, Wegener & Wolf, P.C., respectfully submits this Answer with

Crossclaim and Jury Demand to Plaintiff Texas Eastern Transmission, LP's ("Plaintiff" or "Texas Eastern") Verified Complaint averring as follows:

**BACKGROUND AND NATURE OF THE ACTION**

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Defendant denies sufficient information or knowledge to form a belief as to the truth of the allegations and leaves Plaintiff to its proofs.

**ACQUISITION OF REQUIRED RIGHT OF WAY**

7. Defendant denies sufficient information or knowledge to form a belief as to the truth of the allegations and leaves Plaintiff to its proofs.
8. Admitted.

**JURISDICTION AND VENUE**

9. Admitted.
10. Admitted.

**PARTIES**

11. Admitted.
12. Admitted that Defendant Coles Jersey Development Co., LLC, c/o Hoboken Brownstone Co. ("Coles/Hoboken

Brownstone")<sup>1</sup> is the fee owner of Block 6005, Lot 13, but Defendant denies sufficient information or knowledge to form a belief as to the truth of the remaining allegations and leaves Plaintiff to its proofs.

13. Admitted that Ogden is the former owner of Block 6005, Lot 13. Admitted that Ogden and Plaintiff entered into a Consent Order for Final Judgment Fixing Compensation in the amount of \$3,500,000.00 under Docket No. 12-3412-SRC, which reflected Plaintiff's payment of compensation to Ogden for the taking involving Block 6005, Lot 13, and Ogden agreed that the taking could include Block 6005, Lot 7 to the extent Ogden had any interest in Lot 7.
14. Defendant denies sufficient information or knowledge to form a belief as to the truth of the allegations and leaves Plaintiff to its proofs.
15. Defendant denies sufficient information or knowledge to form a belief as to the truth of the allegations and leaves Plaintiff to its proofs.

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<sup>1</sup> Exhibit F to the "Gessner Certification" Plaintiff filed with its Verified Complaint contains a Deed dated July 2, 2013, conveying, among other properties, Block 6005, Lots 13 and 7, which Deed identified the Grantor as "Ogden Realty Co., a New Jersey Partnership," and the Grantee as "Coles Jersey Development Co., LLC, a New Jersey Limited Liability Company, whose post office address is c/o Hoboken Brownstone Company, 161 14<sup>th</sup> Street, Hoboken, NJ 07030," and further stated that "[t]he word 'Grantor and Grantee' shall mean all Grantors and Grantees listed above."

**CAUSE OF ACTION**

16. Defendant denies sufficient information or knowledge to form a belief as to the truth of the allegations and leaves Plaintiff to its proofs.
17. Defendant denies sufficient information or knowledge to form a belief as to the truth of the allegations and leaves Plaintiff to its proofs.
18. Admitted but with the clarification that the amount of \$3,500,000.00 reached between Plaintiff and Ogden reflected Plaintiff's payment of compensation to Ogden for the taking involving Block 6005, Lot 13 and Ogden agreed to consent to an order amending the complaint filed under Docket No. 12-3412-SRC to include any interest it may have had in lot 7, which was meaningless to Ogden.
19. Defendant is without sufficient information or knowledge to form a belief as to the truth of the allegations and leaves Plaintiff to its proofs.
20. Admitted.
21. As to the allegation that Ogden agreed to settle its claim for compensation in Docket No. 12-3412-SRC for \$3,500,000.00, the allegations are admitted, the rest and remainder of the allegations are denied.
22. Admitted.

23. Defendant denies sufficient information or knowledge to form a belief as to the truth of the allegations and leaves Plaintiff to its proofs.
24. Defendant denies sufficient information or knowledge to form a belief as to the truth of the allegations and leaves Plaintiff to its proofs.

**CROSS CLAIM**

By way of Cross Claim against Coles/Hoboken Brownstone, Ogden alleges as follows:

1. Plaintiff and Ogden agreed upon the terms of a consent judgment and reached a settlement agreement for the taking involving Block 6005, Lot 13, and Ogden agreed to include any interest Ogden may have had as to Block 6005, Lot 7.
2. Plaintiff has paid \$3,245,000.00 on the judgment, but failed to pay Ogden the \$255,000.00 portion, plus interest, of the \$3,500,000.00 settlement amount, which Plaintiff allocated to the taking involving Block 6005, Lot 7 to the extent Ogden had any interest in Lot 7.
3. Coles/Hoboken Brownstone has no claim or interest in the \$255,000.00 portion of the \$3,500,000.00 settlement amount Plaintiff allocated to the taking

involving Block 6005, Lot 7 to the extent Ogden had any interest in Lot 7.

4. On July 3, 2013, Ogden conveyed ownership of Block 6005, Lot 13, together with whatever interest it may have had in Block 6005, Lot 7 to "Coles Jersey Development Co. LLC, a New Jersey Limited Liability Company whose post office box is c/o Hoboken Brownstone Company, 161 14<sup>th</sup> Street, Hoboken, New Jersey 07030, referred to as the Grantee."
5. At the time of this conveyance, the representative of Ogden and the representative of Cole/Hoboken Brownstone expressed an understanding that the taking by Texas Eastern in the action bearing Docket No. 12-3412-SRC included easements on both lots 13 and 7 of Block 6005, as depicted on the Tax Map of Jersey City.
6. At the time of the closing, Daniel Gans, acting on behalf of Coles Jersey Development Co., LLC and The Hoboken Brownstone Co. agreed to waive all claims to any proceeds from the condemnation of easements that included lots 13 and 7 in Block 6005 in the action bearing Docket No. 12-3412-SRC.

**WHEREFORE** Ogden respectfully demands:

- a) Judgment against Coles/Hoboken Brownstone that Coles/Hoboken Brownstone has no claim or interest in any of

the condemnation proceeds of any easement in Lot 7, Block 6005;

b) Judgment declaring that any compensation for the taking of the easement in this action is to be allocated to Ogden Realty Co.;

c) Judgment against Coles/Hoboken Brownstone for Attorney's fees and costs of suit; and

d) Such other relief as this Court may deem just and equitable.

**JURY DEMAND**

Defendants 0.077 Acres of Land, More or Less, in the City of Jersey City, Hudson County, New Jersey and Ogden Realty Co. hereby demand trial by jury as to all issues triable.

**BATHGATE, WEGENER & WOLF, P.C.**

BY: /s/ Rui O. Santos, Esq.  
**RUI O. SANTOS**

By: /s/ Peter H. Wegener, Esq.  
**PETER H. WEGENER**

One Airport Road  
P.O. Box 2043  
Lakewood, NJ 08701  
Attorneys for Defendants  
0.077 Acres of Land, More or  
Less, in the City of Jersey  
City, Hudson County, New  
Jersey and Ogden Realty Co.

Dated: February 20, 2014

**LOCAL CIVIL RULE 11.2 CERTIFICATION**

The undersigned hereby certify that the matter in controversy is not the subject of any other pending or anticipated litigation in any court, or any arbitration or administrative proceeding, nor are there any non-parties known that should be joined in this action except as follows: **action filed under TEXAS EASTERN TRANSMISSION, LP v. 1.73 Acres of Land, More or Less, in the City of Jersey City, Hudson County, New Jersey, and OGDEN REALTY CO. et al., Docket No. 12-3412-SRC, United States District Court for the District of New Jersey.**

BATHGATE, WEGENER & WOLF, P.C.

BY: /s/ Rui O. Santos, Esq.  
**RUI O. SANTOS**

By: /s/ Peter H. Wegener, Esq.  
**PETER H. WEGENER**

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0.077 Acres of Land, More or  
Less, in the City of Jersey  
City, Hudson County, New  
Jersey and Ogden Realty Co.

Dated: February 20, 2014

**LOCAL CIVIL RULE 201.1 CERTIFICATION**

The undersigned hereby certify that the above-captioned matter is not subject to compulsory arbitration in that injunctive relief is sought.

**BATHGATE, WEGENER & WOLF, P.C.**

BY: /s/ Rui O. Santos, Esq.  
**RUI O. SANTOS**

By: /s/ Peter H. Wegener, Esq.  
**PETER H. WEGENER**

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Dated: February 20, 2014

**CERTIFICATION OF SERVICE**

We hereby certify that on February 20, 2014, we caused a true and correct copy of Defendants 0.077 Acres of Land, More or Less, in the City of Jersey City, Hudson County, New Jersey and OGDEN REALTY CO.'S Answer, Crossclaim and Jury Demand to PLAINTIFF TEXAS EASTERN TRANSMISSION, LP'S VERIFIED COMPLAINT to be filed via the Court's electronic case filing system. The aforementioned document is now available for viewing and

downloading from the ECF system. By virtue of this filing, service is complete upon the following:

Jeffrey D. Smith, Esq.  
Michael J. Ash, Esq.  
Decotiis, Fitzpatrick & Cole, LLP  
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**Attorneys for Defendant Coles Jersey Development Co., LLC**

**BATHGATE, WEGENER & WOLF, P.C.**

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